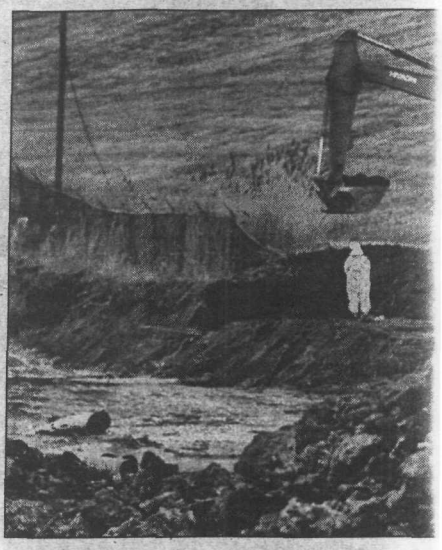
Fallout Over a Nuclear

The Corps of Engineers is embroiled in an enviro

By Michael Grunwald
Washington Post Staff Writer



TONAWANDA, N.Y.

A bleak industrial site cluttered with rusting trash bins and danger signs sits next door to the elementary school here, a radioactive relic of the race to build the atomic bomb. The site concealed a secret uranium plant during World War II, processing ore from Colorado and Congo for the historic Manhattan Project. Now it conceals a contaminated mess, a wartime legacy of low-level nuclear waste.

The Army Corps of Engineers, the nation's largest and most energetic public works agency, is supposed to fix that mess. In September 1997, after a late-night flurry of political machinations, Congress transferred the radiation cleanup program for Tonawanda and 20 similar sites from the Department of Energy to the Corps. Eager to take on the $140 million-a-year mission, Corps officials argued that their agency was "a natural for the job."

But in Tonawanda, a gritty suburb of Buffalo, the Corps may be making an environmental and political mess of its own. The agency's $28 million cleanup plan for the site would allow radioactive uranium levels at least six and possibly 30 times higher than any other such plan in history; state and federal regulators say they have never seen a weaker proposal. New York's health department warned that the site may need a radioactive materials license—after the cleanup.

Meanwhile, the Environmental Protection Agency has launched a criminal investigation into early disposal efforts in Tonawanda, probing whether the contractors hired by the Corps mishandled waste and even manipulated data to disguise radioactive material as less dangerous garbage. California regulators are investigating, too; they claim that more than 2,000 tons of Tonawanda debris was buried illegally at a San Joaquin Valley dump without a federal radioactive waste license. Last week, a Senate committee held a hearing on the broader Corps decision to dispose of many of its Manhattan Project leftovers in such landfills.

The Corps insists its cleanup of the so-called Linde-Praxair site here will protect human health and the environment. And the agency's first two radiation cleanups—one in Tonawanda, one in nearby Buffalo—do appear to be success stories. The Corps believes less stringent standards make economic sense at Linde-Praxair, because the waste is confined to an industrial location and is generally considered "low level" uranium, thorium and radium. Democratic Sen. Barbara Boxer of California says one Corps lawyer told her it is so safe, she could roll around in it.

Leading radiation experts emphatically disagree. They caution that even low-level waste can increase cancer risks, and even low-level waste sites can hide dangerous "hot spots." And they warn that the Corps is literally breaking new ground in radiation protection, ignoring long-accepted procedures and introducing unprecedented assumptions into its cleanup plan.

Arjun Makhijani, president of the Institute for Energy and Environmental Research, reviewed hundreds of pages of Tonawanda documents at The Washington Post's request. Makhijani also spoke at length to a Corps technical expert, and although he was impressed with the agency's openness, he believes its plan "sets a poor example for cleanup in other areas of the country."

"The Army Corps has claimed it is cleaning up this site to a free-release standard—clean enough so that homes can be built there and children can play," he says. "I have concluded that its claim is based on egregious assumptions."

The story of the Corps' recent entree into nuclear waste offers a new example of how this unusual Pentagon-based agency's close ties to Congress have allowed it to expand its mission over the years, sometimes into areas where its qualifications are in question. The result, say environmentalists, anti-tax advocates and local activists, has been a steady stream of wasteful pork-barrel projects, vast environmental damage—and now, at Tonawanda, the specter of a radiation debacle.

In recent months, the agency's military-led bureaucracy has been criticized for devising an internal "Progra Initiative" designed to boost the agency's budget by and for allegedly rigging a study to justify billion- jects on the Mississippi and Illinois rivers. Army Louis Caldera recently announced a series of m reforms designed to restore public confidence in but suspended them April 6 after just one week, a r heavy pressure from several key Republican senato

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A crew digs out radioactive dirt for removal from one of the Army Corps of Engineers cleanup sites in Tonawanda, N.Y.

BY MICHAEL WILLIAMSON—THE WASHINGTON POST

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The agency's defenders say the Corps—an aggressive, 37,000-employee powerhouse with a can-do mentality—is the obvious choice for an earth-moving job like Tonawanda. "We've got the expertise," says George Brooks, a top Corps engineer in Buffalo. "We know we can do this."

But the Corps is taking an unprecedented approach to nuclear cleanup, and its critics ask why a public works agency is setting new radiological standards. The Corps, they say, didn't enhance its case when it rejected the normal procedure of hiring a "verification contractor" to monitor its work in Tonawanda—even after a citizens group offered to pay the bill.

"The Corps just doesn't seem to be operating in the real world," says Paul Giardina, chief of the radiation and indoor air branch for the EPA's New York regional office. "They're so far out of line; we've never seen anything like it."

Corps officials have refused to change the controversial numbers in their official plan, but in public meetings, they have pledged that their final cleanup levels at Linde-Praxair will be well below the legal maximums, satisfying the demands of state and federal regulators. The commander of the agency's Buffalo district, Lt. Col. Mark Feierstein, offered a straightforward message to the community: Trust us.

"To me, the Army is an organization where to the maximum extent possible you do the right thing, and that's why I stayed in it," Feierstein said at a meeting last April. "Again, if you trust your military, that's why Congress gave this mission to the Corps of Engineers."

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ACTUALLY, IT WAS A BIT MORE COMPLICATED THAN that. The fiscal 1998 energy and water bill, the legislative vehicle that whisked the so-called FUSRAP nuclear waste cleanup program to the Army Corps from the Energy Department, was a textbook example of the long-running love affair between Congress and the Corps. The bill included a whopping 68 specific projects that members had directed the Corps to build in their home districts.

Many Republicans in Congress hated the Energy Department as much as they adored the Corps. They had tried to abolish the department after their revolution of 1994. Then the Energy secretary, Hazel O'Leary, became embroiled in a foreign junket scandal. And shortly before the 1996 election, O'Leary appeared at a New Jersey FUSRAP site with a Democrat, William Pascrell Jr., who was mounting an ultimately successful challenge to then-Republican Rep. Bill Martini of New Jersey.

So the GOP was primed to attack Energy. And Energy's bungling had turned FUSRAP—Beltway bureaucratese for the Formerly Utilized Sites Remedial Action Program—into a juicy target.

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IN 1997, REP. JOSEPH McDADE OF PENNSYLVANIA, then chairman of the House Appropriations energy and water development subcommittee, looked at FUSRAP. He discovered that the Energy Department had decontaminated only 25 of 46 sites since the program began in 1974. And he found that Washington-wired Bechtel Group Inc. had kept the primary contract without a competitive bid since 1980.

"I said, 'My God, this is outrageous,' " McDade recalled in an interview. "So I asked the Corps if they thought they could take it on instead. They said: 'Hell, yeah.' "

The Corps, after all, was on the prowl for new work. Lt. Gen. Joe Ballard, the agency's military commander, had just published a "Strategic Vision," and "Seek Growth Opportunities" was one of its three main principles. The document urged the agency to "market and capitalize on opportunities for mission growth," to "continuously scan the horizon at all levels for emerging trends, challenges and opportunities," to "target new work that promotes core competencies."

No one ever held a hearing to ask whether FUSRAP matched those core competencies. In fact, when then-Energy Secretary Federico Peña testified before McDade's subcommittee, no one even mentioned the possibility of a switch. But McDade—egged on by a staff member who once worked at the Energy Department—tucked the provision into the House budget anyway. He says his committee members really saw FUSRAP more as an earth-moving program than a radiological health program. It even had a nickname: Muck and Truck.

"Everyone knew this was very low-level stuff," McDade says. "Was the Corps trying to grow its budget? Of course. That's what bureaucracies do. But this was a perfect fit for them."

Still, a sudden shift seemed unlikely. The Senate bill left FUSRAP alone. The White House "strongly opposed" a transfer. Energy began explaining its plans to reform the program. And members from the eight states with active sites signed letters warning that a switch would further delay cleanups.

"Everyone told us the program was safe," one administration official recalls. "Then it got stolen in the dead of night."

The night was Sept. 24, 1997, when House and Senate committee members met to reconcile their versions of the $20.7 billion bill. McDade had already paved the way for the switch, using an old appropriator's trick. He had cut funds in the House version of the bill for Energy labs in New Mexico, the pet projects of his counterpart, Republican Sen. Pete V. Domenici of New Mexico. Then he agreed to undo the cuts—in exchange for concessions. So after the conference began, Domenici announced that the Senate would accept the House language on FUSRAP, and asked for a show of hands. The ayes have it, he announced.

Then something weird happened. Sen. Harry M. Reid of Nevada, the ranking Democrat on the committee, demanded a roll-call vote. "This is bad government," Reid declared.

Then something even weirder happened. The ayes didn't have it, by a 9 to 5 vote. Reid had lined up proxy votes, and had persuaded three Republicans to cross party lines. "Everyone was stunned," a lobbyist says. "You just never see that happen. It was a real ambush."

A red-faced Domenici quickly called a recess, and the chairmen and ranking Democrats retreated to a private meeting to finalize the bill. Everyone seems to recall a frenzy of horse-trading, but no one seems to remember what got traded.

In any case, when it was over, Reid backed down. FUSRAP was assigned to the Corps, and its budget was nearly doubled, to $140 million.

Reid insists that he didn't receive anything for his switcheroo; he notes that he had already secured funding for his top priorities, including Nevada's nuclear test site, Las Vegas flood control and a Corps project on the Truckee River. Reid says he gave in because he lost his votes: "From a public policy standpoint, I thought switching that program was foolish."

St. Louis could argue the point—although it probably wouldn't—but Tonawanda, just 20 miles from the toxic disaster at Love Canal, has a plausible claim as the FUSRAP capital of America. In addition to Linde-Praxair, home of the top-secret uranium factory known as the Ceramic Plant during the war, three nearby sites are in the program as well.

■

FOR YEARS, THE WASTE JUST SAT there, in walls and vents and underground tunnels, a corrosive presence in the town psyche. There were angry meetings with screaming politicians. There was talk about cancer clusters. The Energy Department and Bechtel became community pariahs.

Then the Corps marched into town. And dirt began to fly.

"The Energy Department had no credibility around here," says Chuck Swanick, the chairman of the Erie County Legislature and a leader of Citizens Against Nuclear Waste in Tonawanda, or CANiT. "Then this guy in an Army uniform shows up and says: We're getting this stuff the hell out of here. And here go the bulldozers! Action! Action! Can you imagine how we felt?"

Even New York's aggressive radiation regulators are satisfied with the first two Corps cleanups. But at Linde-Praxair, the Corps is running into trouble.

The problems started at Building 30, where 28,000 tons of uranium ore arrived during the war to begin the concentration process for the A-bomb. The Corps demolished the structure in 1998, then sent 83 rail cars full of wood, concrete and insulation to a Buttonwillow, Calif., dump that is not licensed to receive low-level radioactive waste.

Now sources say the EPA's Criminal Investigative Division is digging into the disposal of Building 30. EPA officials would not confirm or deny the probe, but Giardina and his boss, environmental planning director Kathy Callahan, openly criticized the way the situation was handled.

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The EPA also denounced the Corps for mixing contaminated and uncontaminated debris from Building 30 and calculating the average radiation, instead of separating "hotter" sections for disposal under a radioactive materials license. Feierstein says his contractor simply segregated as much clean material as was practical, and did not need a license.

Investigators also want to know whether the Corps or its contractors manipulated the sample data in an effort to reduce the overall radioactivity average—in essence, whether anyone tried to mischaracterize the material to avoid regulation. Documents obtained by The Post suggest that at one point, a contractor considered removing two of the more radioactive samples as "outliers." But Feierstein says that in the end, "the idea was abandoned."

FUSRAP waste falls into a regulatory black hole, and there is widespread confusion about the responsibility of the Corps and its contractors to follow various state and federal rules. That said, Ed Bailey, radiation director for the California health department, flatly calls the Tonawanda disposal "completely unacceptable." His agency has determined that the Linde-Praxair waste poses no apparent health risk at Buttonwillow, but he believes the Corps clearly "mischaracterized" it, and had no business sending it to California.

Boxer goes even further: She believes the Corps should not send FUSRAP waste to any facility that is not licensed by the Nuclear Regulatory Commission. The agency is already shipping to unlicensed facilities in Utah and Idaho, which does not even have a radiation control program. "This is a mess, an absolute mess," Boxer says. "I am completely frustrated with the Corps. Their performance tells me that the last thing they need is new missions."

Assistant Army Secretary Joseph Westphal, the civilian leader of the Corps, has told Boxer that his agency will not send any more waste to California without written approval, but the Corps believes its actions were appropriate. Officials at Safety-Kleen Corp., which owns the Buttonwillow dump, charge that Boxer and other critics—notably Republican Sen. Robert F. Bennett of Utah, who joined Boxer in requesting the hearing—are carrying water for well-connected Envirocare of Utah Inc., which runs an NRC-licensed dump that used to get most of the FUSRAP waste.

"This disposal process was very kosher," says Bill Ross, director of regulatory affairs at Safety-Kleen, which is enduring a scandal of its own after suspending three of its top officers over accounting irregularities. "On Monday morning after the big game, you can always talk about better ways to do this stuff. But we don't see anything wrong here."

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THE BIG QUESTION FOR THE LINDE-PRAXAIR SITE IS how much radiation is too much. Because as Corps officials love to point out, radiation is everywhere. In a glass of merlot. In a human body. In uncontaminated soil. In Brazil nuts. "I want to be perfectly blunt and give you the unsugarcoated, unvarnished truth," Feierstein declared at the April meeting. "There is no way all of the radioactive material will be removed from this site."

Today, the 105-acre Ceramic Plant site serves as a research campus for Praxair Inc., the world's largest industrial producer of carbon dioxide. It provides jobs for 1,400 workers; unironic signs tout "An Atmosphere of Excellence." Praxair wants to develop the rest of the site, and local officials are eager to see that happen.

"They've studied the heck out of this site," says Thomas Dugan, Praxair's manager for safety, health and the environment. "Enough already. Let's get this over with."

That is a widespread feeling here. Local officials protested when the Corps announced that its maximum cleanup standard for uranium would be 600 picocuries per gram—six times higher than any previous radiation cleanup plan, and 10 times higher than the original maximum set by the Energy Department. But now the officials say they want to see how the cleanup goes, even though the agency subsequently proposed maximum uranium levels as high as 3,021 picocuries per gram, comparable to the concentrations in minable uranium ore.

"The Corps is putting this entire area at risk, and nobody seems to care," says Ralph Krieger, a former Praxair union official who now heads For a Clean Tonawanda Site, or FACTS, an activist group that tangles often with the politicians who run CANiT. "People say: Dirt is moving, there's no danger now, so why worry? But what about our kids?"

Corps officials say that Tonawanda should not worry about the high numbers for radiation levels, that the only numbers that really matter are the projected doses for people. And they say their plan will create much less human exposure than, for example, porcelain dentures.

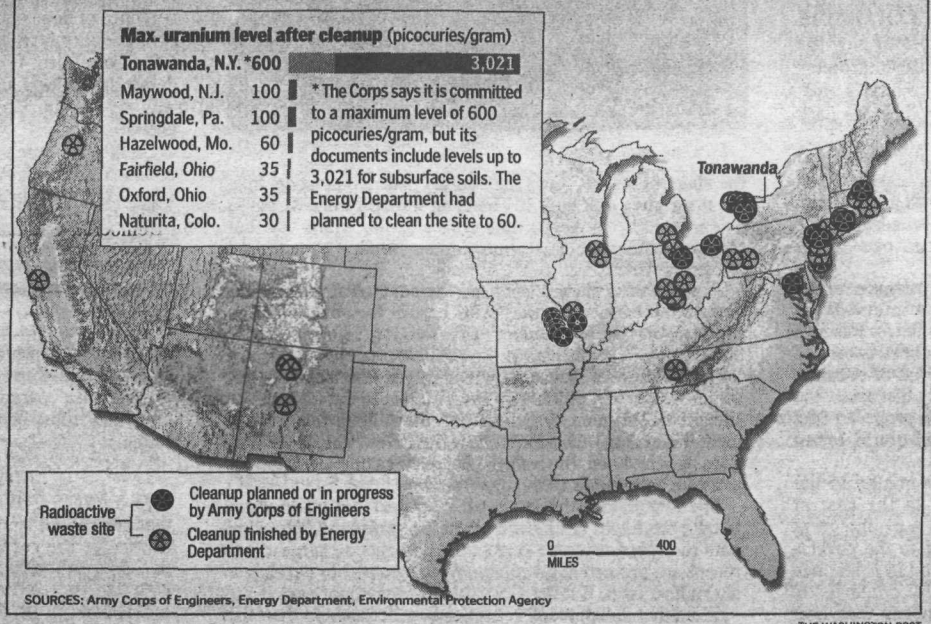
But experts say those dose calculations rely on unprecedented assumptions. Holmes Elementary School sits just west of the site; Two-Mile Creek runs right through it to the nearby Niagara River. Nevertheless, experts and regulators say, the Corps assumed in its analysis that the site will remain an industrial property forever, and that its groundwater will never become drinking water—even though its plan designates the site for unrestricted use after the cleanup, and even though the radioactive elements there could last millions of years.

"That site might be industrial for 10 years," Makhijani says. "But what about 20 years? What about 50 years? That radioactivity isn't going to disappear."

Still, the Corps has given the community more than an official plan. Feierstein also gave his word, promising that when the cleanup is done, the site will be safe for residential use. "Our credibility is shot if we don't make that," he says. "We're going to keep digging until we get there." ■

The Corps' Cleanups

In fall 1997, Congress switched a radioactive waste program from the Energy Department to the Army Corps of Engineers. In Tonawanda, N.Y., the Corps is literally breaking new ground in radioactive waste cleanups. There is dispute about the maximum uranium levels in the official Corps plan, but the levels are far higher than any other cleanup plan in history.



SOURCES: Army Corps of Engineers, Energy Department, Environmental Protection Agency

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